

LAVELY & SINGER

PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

SUITE 2400

2049 CENTURY PARK EAST

LOS ANGELES, CALIFORNIA 90067-2906

TELEPHONE (310) 556-3501

TELECOPIER (310) 556-3615

www.LAVELYSINGER.com

JOHN H. LAVELY, JR.
MARTIN D. SINGER
BRIAN G. WOLF
LYNDA B. GOLOMAN
MICHAEL D. HOLTZ
PAUL N. SORRELL
MICHAEL E. WEINSTEN
EVAN N. SPIEGEL

TOOO STANFORD EAGAN
HENRY L. SELF, III
ANDREW B. BRETTLER
DANIEL R. GUTENPLAN
DAVID B. JONELIS
MICHAEL V. MANCINI
JONATHAN M. KLEIN

ALLISON S. HART
KEVIN JAMES
OF COUNSEL

October 1, 2014

VIA E-MAIL, U.S. MAIL

and FACSIMILE: (650) 253-0001 / (650) 963-3255 / (650) 618-1806 / (650) 618-1499

Larry Page -- CEO and Co-Founder
Eric E. Schmidt -- Executive Chairman
Sergey Brin -- Co-Founder
David C. Drummond, Esq. -- Sr. V.P., Corporate Development and Chief Legal Officer
Kent Walker, Esq. -- Sr. V.P. & General Counsel, Google
Harris Cohen, Esq. -- Associate Product Counsel, YouTube
GOOGLE INC.
1600 Amphitheatre Parkway
Mountain View, CA 94043

Re: Google's Repeat Copyright & Privacy Violations in Connection
with Hacked Photo Scandal
Our File No.: 5608-2

Dear Messrs. Page, Schmidt, Brin, Drummond, Walker and Cohen:

We are litigation counsel for over a dozen female celebrities, actresses, models and athletes whose confidential, personal, private photos and videos (the "Images") were recently hacked from their respective iCloud accounts and illegally posted on various websites and blogs, including YouTube, Blogspot and other Google based sites, servers and systems. We are writing concerning Google's despicable, reprehensible conduct in not only failing to act expeditiously and responsibly to remove the Images, but in knowingly accommodating, facilitating and perpetuating the unlawful conduct. Google is making millions and profiting from the victimization of women. As a result of your blatantly unethical behavior, Google is exposed to significant liability and both compensatory and punitive damages that could well exceed One Hundred Million Dollars (\$100,000,000).

Ever since the hacked Images first began to be posted on websites and blogs during Labor Day Weekend, we have been sending notices to various website operators and host providers, including Google, demanding that the Images be removed in accordance with the requirements of the Digital Millennium Copyright Act ("DMCA"), which mandate that the Internet service provider ("ISP") and/or host act "expeditiously" to remove the unlawful Images. The vast majority of those sites and ISPs/hosts, all of which are much smaller than Google, with far fewer staff and resources, complied with their obligations under the DMCA and removed the Images within an hour or two of receiving our DMCA notice. Yet Google, one of the largest ISPs in the world, with vast resources

GOOGLE INC.

Re: **Google's Repeat Copyright & Privacy Violations in Connection with Hacked Photo Scandal**

October 1, 2014

Page 2

and a huge support staff, generating multimillions of dollars in revenues on a daily basis, has recklessly allowed these blatant violations to continue in conscious disregard of our clients' rights. In fact, although it has been approximately four (4) weeks since we sent our first DMCA notice to Google, and well over a dozen additional notices and warnings have been sent to you since then, many of the Images are still available on Google's sites, including BlogSpot and YouTube, and Google continues to allow multiple offending sites and blogs to post the Images on its channels. This is unconscionable, especially for a company that boasts that its conduct should be "measured against the highest possible standards of ethical business conduct."

Google knows that the Images are hacked stolen property, private and confidential photos and videos unlawfully obtained and posted by pervert predators who are violating the victims' privacy rights and basic human decency by stealing and displaying confidential private photos and videos (most of which depict the women in private settings, while nude or semi-nude, engaging in private intimate conduct) without the permission of the owners of the Images. Yet Google has taken little or no action to stop these outrageous violations, or to limit the Images from appearing in Google search results. In fact, Google's YouTube counsel and compliance department refuse to remove stolen images through your expedited content verification process which would facilitate the instant removal of the Images uploaded to YouTube. Google has chosen to protect its revenue stream partners in order to earn multi millions of dollars on a weekly basis over the rights and protection of individuals. It is shocking that Google is facilitating the dissemination of the Images.

While responsible providers like Twitter are immediately removing the Images and suspending the offending user accounts, Google is perpetuating the despicable conduct of these habitual pervert predators -- including blogspot accounts that have acted as some of the main display source, depository download locations, lists and links for the hacked stolen Images -- by allowing them to continue to operate and post the Images with impunity. Google is knowingly allowing vast and pervasive copyright infringement and violation of privacy rights against these women, who are being repeatedly violated, exploited and victimized.

Google prides itself on its "Code of Conduct" which, according to Google's own website, is **"built around the recognition that everything we do in connection with our work at Google will be, and should be, measured against the highest possible standards of ethical business conduct."** Google further claims that its "Don't be evil" motto includes not just providing its users unbiased access to information, but is **"also about doing the right thing more generally - following the law, acting honorably and treating each other with respect."**

Yet the conduct Google has exhibited in the past four weeks in connection with the celebrity photo hacking scandal has been at the polar opposite end of the ethics spectrum. Google has exhibited the lowest standards of ethical business conduct, and has acted dishonorably by allowing and perpetuating unlawful activity that exemplifies an utter lack of respect for women and privacy. Google's "Don't be evil" motto is a sham.

GOOGLE INC.

Rc: **Google's Repeat Copyright & Privacy Violations in Connection with
Hacked Photo Scandal**

October 1, 2014

Page 3

It is truly reprehensible that Google allows its various sites, systems and search results to be used for this type of unlawful activity. If your wives, daughters or relatives were the victims of such blatant violations of basic human rights, surely you would take appropriate action. But because the victims are celebrities with valuable publicity rights, you do nothing - - nothing but collect millions of dollars in advertising revenue from your co-conspirator advertising partners as you seek to capitalize on this scandal rather than quash it. Like the NFL, which turned a blind eye while its players assaulted and victimized women and children, Google has turned a blind eye while its sites repeatedly exploit and victimize these women.

The law does not insulate Google from liability under these circumstances. As you should be well aware, pursuant to the DMCA, an ISP/host has only a *conditional* safe harbor for infringing content posted by its users. To qualify for the § 512(c) safe harbor, the ISP/host must not have actual knowledge that it is hosting infringing material. Pursuant to our dozens of notices to you, Google has had actual knowledge of ongoing mass infringement (including from repeat infringers on specific Google based sites), and Google was legally obligated to expeditiously remove or disable access to the allegedly infringing material. Your repeated failure to expeditiously comply with our valid DMCA Copyright removal demands, as well as outright refusals in various instances, exposes you to significant liability commensurate with the liability of your user/customer, and you will be held jointly liable for the continued and blatant copyright infringement, and/or held liable for contributory infringement.

We hereby demand that you do each of the following:

- (i) immediately remove any and all Images and suspend/terminate all offending Google hosted sites, blogspot accounts and YouTube Channel accounts hosting and/or responsible for the upload, display and linking of the Images;**
- (ii) immediately suspend/terminate all Google hosted sites and user accounts that invite submission of the stolen content, and/or perpetrate and facilitate the posting, sharing, dissemination and linking to the hacked stolen Images; and**
- (iii) immediately remove all Google search engine and Goggle image search results for and which display the hacked stolen Images.**

PRESERVATION OF DATA FOR LITIGATION: In addition, as this matter involves an ongoing investigation and legal actions, we request that, pursuant to your obligations under federal and state laws, and other applicable laws of your locale, you preserve all user account records and data for the responsible customer accounts or persons responsible (as set forth in each of the dozens of prior submitted legal and DMCA notices) for the uploads of the Images (including IP addresses, log-in records, email addresses, payment records and sources and/or other user data, and any other information which may evidence the identity of the account holder) pending subpoenas to be issued in the upcoming/pending litigation and by the applicable authorities.

GOOGLE INC.

Re: **Google's Repeat Copyright & Privacy Violations in Connection with
Hacked Photo Scandal**

October 1, 2014

Page 4

It is time that Google owns up to its conduct and remedies this gross violation of law, ethics, morals and basic privacy rights. Rather than be the transgressor, Google should set the example for all other operators and providers. In Google's own words, "Don't be evil."

The seriousness of this matter cannot be overstated. If Google continues to thumb its nose at my clients' rights -- and continues to both allow and facilitate the further victimization of these women -- and disregards the demands of this letter, it does so at its own peril.

This is not a complete recitation of the facts or law regarding this matter. Nothing contained herein is intended as, nor should it be deemed to constitute, a waiver or relinquishment of my clients' rights or remedies, whether legal or equitable, all of which are hereby expressly reserved.

Sincerely,



MARTIN D. SINGER

MDS:cp

cc: Evan N. Spiegel, Esq.
Michael Holtz, Esq.

5608-2\MDS-Google 100114 v3